

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.618 OF 2003

Mr.Dinesh Natvarlal Makani & ors. ..Petitioners

Versus

The State of Maharashtra & Ors. ..Respondents

Mr.Piyush Shah i/by Devendra Udani for petitioners.

Mr.S.R.Nargolkar AGP for Respondent No.1.

Mr.G.S.Hegde for Respondent No.2.

Mr.V.S.Kokitkar for Respondent No.4.

**Coram : R.M.LODHA &
R.S.MOHITE, JJ**

Date : 24.3.2005.

PC

. Heard the learned Counsel for the petitioners.

2. The grievance of the petitioners is regarding illegal and un-authorised construction made by respondent no.4-Manharlal Vallabhdas Shah in the building known as Mahakali Niwas, Vartak Road, Opposite, Virar Railway station, Virar (West).

3. It appears that petitioners are tenants in the said building and the respondent no.4 is the owner. The petitioners have written to Virar Municipal

Council on various occasions for supply of copy of building plan of Mahakali Niwas said to have been approved by the Virar Municipal Council but neither any reply was given by Virar Municipal Council to the various letters of the petitioners nor the copy of the building plan was supplied. Despite service of notice, Virar Municipal Council has not chosen to appear.

4. Taking over all facts and circumstances of the case in to consideration, we are of the view that if any un-authorised or illegal construction has been made by respondent no.4 in the building known as Mahakali Niwas within the municipal area of Virar Municipal Council, the said Municipal Council must follow due procedure for removal of such an un-authorised and illegal construction. On the other hand, if the construction in the building Mahakali Niwas is not un-authorised or illegal, the matter needs to be filed.

5. We, accordingly, dispose of the Writ petition by following order :-

O R D E R

1. The Writ petition and the documents annexed thereto shall be treated as representation to the

Virar Municipal Council ;

2. The Virar Municipal Council through its concerned authority shall hear the petitioners and the respondent no.4 and pass an appropriate order and take appropriate action if un-authorised and illegal construction is found in the building known as Mahakali Niwas, Vartak road, Opposite Virar railway station, Virar (West) and if the grievance of the petitioners is found to be without merit, the matter shall be filed.

(R.M.LODHA, J)

(R.S.MOHITE, J)